



Bureau of Justice Assistance Fact Sheet

Nancy E. Gist, Director

Defense Procurement Fraud Debarment Clearinghouse

The Defense Procurement Fraud Debarment Clearinghouse, operated by the Bureau of Justice Assistance (BJA) of the Office of Justice Programs, U.S. Department of Justice, was established by Section 815, Subsection 10, of the National Defense Authorization Act for fiscal year (FY) 1993 [Public Law 102-484, United States Code, Section 2408 (c)]. This provision required the U.S. Attorney General to establish a single point of contact for contractors or subcontractors of the U.S. Department of Defense (DOD) to promptly confirm whether potential employees have been convicted for defense contract-related fraud or any other felony. The Clearinghouse serves as this point of contact.

DOD contractors and subcontractors must verify such information because individuals who have been convicted of fraud or any other felony arising out of a contract with DOD are prohibited from contracting with DOD under the National Defense Authorization Act of 1989 (Public Law 100-456).

Debarment

Any individual convicted after September 29, 1988, of fraud or any other felony arising out of a contract with DOD [as such terms are defined by DOD, pursuant to Defense FAR Supplement (DFARS) Part 217.500, Subpart 203.570-2] shall be prohibited from the following activities:

- ❑ Working in a management or supervisory capacity on any defense contract or any first-tier subcontract of a defense contract.

- ❑ Serving on the board of directors of any defense contractor or any subcontractor awarded a contract directly by a defense contractor.
- ❑ Serving as a consultant, agent, or representative to any defense contractor or any subcontractor awarded a contract directly by a defense contractor.
- ❑ Serving in any capacity with the authority to influence, advise, or control the decisions of any DOD contractor or subcontractor with regard to any DOD contract or first-tier subcontract.

This restriction does not apply to the following:

- ❑ A contract, as specified above, that is not greater than the simplified acquisition threshold.
- ❑ A contract, as specified above, that is for the acquisition of commercial items.
- ❑ A subcontract that is under a contract as specified above.

DOD has sole responsibility for determining the period of prohibition as described above. The prohibition period:

- ❑ Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security.
- ❑ May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the Bureau of Justice Assistance, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Definitions

In applying the provisions of the law, DOD interprets its terms as follows:

- ❑ *Conviction of fraud or any other felony* means any conviction for fraud or felony in violation of federal or state criminal statutes, whether the conviction was entered on a verdict or a plea (including a plea of nolo contendere), for which a sentence has been imposed.
- ❑ *Arising out of a contract* with DOD means an act in connection with attempting to obtain, obtaining, or performing a contract or first-tier subcontract of any agency, department, or component of DOD.
- ❑ *Date of conviction* means the date judgment was entered against the individual.

As prescribed in Section 4(11) of the Office of Federal Procurement Policy Act [41 U.S.C. 403 (11) and (12)]:

- ❑ *Simplified acquisition threshold* means \$100,000.
- ❑ *Commercial item* means any of the following:
 - Any item, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes.
 - Any item that evolved from an item described in this subsection through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under Federal Government solicitation.
 - Any item that, but for modification of a type customarily available in the commercial marketplace or minor modifications made to meet Federal Government requirements, would meet the criteria for items stated above.
 - Any combination of items, meeting those requirements described in this subsection, that are of a type customarily combined and sold in combination to the general public.
 - Installation services, maintenance services, repair services, training services, and other services if such are procured for support of an item stated in this subsection.
 - Services offered and sold competitively, in substantial quantities, in the commercial marketplace based on established catalog prices for

specific tasks performed and under standard commercial terms and conditions.

- Any item, combination of items, or services referred to in this subsection, notwithstanding that the item, combination of items, or service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.
- A nondevelopmental item, if the procuring agency determines, in accordance with conditions set forth in the Federal Acquisition Regulation, that the item was developed exclusively at private expense and has been sold in substantial quantities, on a competitive basis, to multiple state and local governments.

Penalty to Contractors and Subcontractors

A defense contractor or subcontractor who knowingly employs a person under prohibition or allows such a person to participate in activities covered under the Debarment section is subject to a criminal penalty of up to \$500,000.

How the Clearinghouse Obtains and Manages Information

Defense-related fraud and felony cases are tried in federal court and prosecuted by a U.S. Attorney. U.S. Attorney's Offices submit copies of sentencing orders for all individuals convicted of defense-related fraud or felony in their districts to the Defense Procurement Fraud Debarment Clearinghouse on a quarterly basis. BJA maintains a list of persons who have been disqualified from contracting with DOD based on these sentencing orders.

Clearinghouse Services

The Clearinghouse responds to inquiries from federal agencies, DOD contractors, and first-tier subcontractors as required for determination of employment or contract eligibility purposes. The Clearinghouse also forwards pertinent information to the U.S. General Services Administration (GSA), where the information is coded to identify the specific category of federal exclusion, which is included in the GSA publication *Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs*, more commonly known as the Debarment List. The exclusion is categorized according to the specific cause (i.e., the statute violated and the treatment or exclusion).

Clearinghouse staff are accessible Monday through Friday from 8 a.m. to 5 p.m. eastern time at 202-616-3507. At other times, calls are received by an answering machine.

The Debarment List is available by written request from GSA, Office of Acquisition Policy, 18th and F Streets NW., Washington, DC 20405, or by telephone at 202-501-4873. The Debarment List is also available on the Internet at <http://epls.arnet.gov>.

For Further Information

For additional information about the Defense Procurement Fraud Debarment Clearinghouse, visit www.ojp.usdoj.gov/BJA (click on BJA Administered Non-Grant Programs) on the Web or write to:

Bureau of Justice Assistance

U.S. Department of Justice
810 Seventh Street NW.
Washington, DC 20531
202-616-3507
Fax: 202-616-0511

Bureau of Justice Assistance Clearinghouse

P.O. Box 6000
Rockville, MD 20849-6000
1-800-688-4252
World Wide Web: www.ncjrs.org

Clearinghouse staff are available Monday through Friday, 8:30 a.m. to 7 p.m. eastern time. Ask to be placed on the BJA mailing list.

U.S. Department of Justice Response Center

1-800-421-6770 or 202-307-1480

Response Center staff are available Monday through Friday, 9 a.m. to 5 p.m. eastern time.

To subscribe to the Debarment List, write or call:

Superintendent of Documents

U.S. Government Printing Office
Washington, DC 20402
Stock #722-022-00000-8
202-512-1800

For additional information about the Debarment List, write or call:

General Services Administration

Office of Acquisition Policy
18th and F Streets NW.
Washington, DC 20405
202-501-4873

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